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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,307	09/26/2001	James T. Bodner	1662-41200 JMH (P01-3707)	9916
22879 7590 06/06/2007 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER AILES, BENJAMIN A	
			ART UNIT 2142	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/964,307

Applicant(s)

BODNER ET AL.

Examiner

Benjamin A. Ailes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5-7,11-14,18-20 and 23 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,11-14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to correspondence filed 10 April 2007.
2. Claims 1, 5-7, 11-14 and 18-20 remain pending. Claim 23 has been withdrawn. Claims 2-4, 8-10, 15-17 and 21-22 have been canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. Claims 1, 5-7, 11-14 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suorsa (US 2004/0226010 A1) in view of Baker et al. (US 7,080,138 B1), hereinafter referred to as Baker.
6. Regarding claim 1, Suorsa teaches a method for configuring a server in a system including a plurality of servers, comprising:

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(a) requesting configuration data by the server to be configured (p. 6, para. 0048, ll. 8-11, Suorsa discloses a server agent sending a request for configuration information.).

Suorsa teaches the acquisition of configuration data from a server but does not explicitly teach the step "(b) without human intervention, identifying from among a plurality of servers, which server includes configuration data suitable for use by the server to be configured, wherein each of the plurality of servers has configuration data that can be used to configure another server". However, in related art, Baker teaches on limitation step (b) wherein Baker teaches a method for content server selection. Baker teaches wherein a client submits a request and a particular server is selected from a group of servers that can provide the content desired in an optimal manner (col. 2, ll. 26-29). Once the content server is selected the appropriate content is distributed to the client (col. 2, ll. 66- col. 3, ll. 2). This teaches on limitation steps c and d in combination with what is taught by Suorsa (p. 6, para. 0048, ll. 8-11, Suorsa teaches the server agent automatically obtaining the necessary information; and para. 0048, ll. 4-11, Suorsa teaches the configuration data being provided to the requesting server). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the configuration data acquisition method as taught by Suorsa with the improved method of acquiring content taught by Baker. One of ordinary skill in the art would have been motivated to make such a combination as suggested by Baker wherein it is desirable when transporting data to select a content server with the best

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available combination of latency, bandwidth and reliability and provide content to a client in an optimal manner (Baker, col. 1, ll. 21-25 and col. 2, ll. 25-29).

7. Regarding claim 5, Suorsa and Baker teach the method wherein (a) includes providing a server type value with said request for configuration data (Suorsa, p. 7, para. 0054, ll. 10-14, Suorsa teaches the method of assigning a version value to the server).

8. Regarding claim 6, Suorsa and Baker teach the method further including using said server type value to identify which of said other servers includes configuration data suitable for use by the server being configured (Suorsa, p. 7, para. 0054, ll. 3-7, Suorsa teaches the use of the version value in order to determine how recent the configuration data is.).

9. Claim 7 contains similar subject matter and is rejected under the same rationale as claim 1.

10. Regarding claim 11, Suorsa and Baker teach the use of a plurality of servers having multiple modules including configuration data saved thereto (Suorsa, p. 5, paras. 0041-0042).

11. Regarding claim 12, Suorsa and Baker teach the computer system wherein said request includes the type of server to be configured and said first chassis communication module uses said type of server to retrieve configuration data suitable for the installed server (Suorsa, p. 7, para. 0058, Suorsa discloses the system wherein different servers being of different types and having different roles and therefore

requiring different types of configuration data. The configuration data obtained and installed is based on what type of server is being configured.).

12. Regarding claim 13, Suorsa and Baker teach the computer system wherein said first chassis communication module finds another of said first plurality of servers that is of the same type as the installed server and retrieves said configuration data corresponding to such matching other server (Suorsa, p. 7, para. 0059, ll. 7-13, Suorsa discloses the servers being of different types and therefore requiring different types of configuration data. The server to be configured locates a similar server and obtains and installs the appropriate configuration data.).

13. Claim 14 contains similar subject matter and is rejected under the same rationale as claim 1.

14. Claim 18 contains similar subject matter and is rejected under the same rationale as claim 11.

15. Claim 19 contains similar subject matter and is rejected under the same rationale as claim 12.

16. Claim 20 contains similar subject matter and is rejected under the same rationale as claim 13.

### ***Response to Arguments***

17. Applicant's arguments filed 10 April 2007 have been fully considered but they are not persuasive.

18. (A) Applicant argues that claim 23 is pending and that the examiner did not reject claim 23 nor even acknowledge its existence in the present Office Action dated 13

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October 2006. Examiner respectfully disagrees. Claim 23 is currently withdrawn from consideration as result of the Restriction requirement submitted 25 July 2006 which applicant responded to on 03 August 2006 electing claims 1, 5-7, 11-14 and 18-20.

19. (B) In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Baker is relied upon for teaching the idea of content server selection. Baker teaches in column 2, lines 26-29 a client submitting a request and a particular server is selected from a group of servers that can provide the content desired in an optimal manner (col. 2, ll. 26-29). Whether the network servers are centralized or decentralized is not required by the filed claims and therefore this characteristic of Suorsa or Baker is deemed irrelevant to the combination set forth in the rejection. Therefore, claims 1, 7, 14 and the remaining dependent claims are not deemed patentable over the prior art of record.

***Conclusion***

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Young (US 6,477,522 B1) teaches dynamic performance based server selection.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

baa

*Beatriz Prieto*  
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PRIMARY EXAMINER